Application No. 09/423,131
Supplemental Amendment () dated January 5, 2004
Reply to Office Action of September 16, 2003

REMARKS

Reconsideration and allowance for the above-identified application are now respectfully requested. Claims 2-19 were pending at the time of the last examination. Claims 2, 9, 11, 13, 15 and 17-19 are amended herein; and Claims 20-23 are added herein. Accordingly, upon entry of the above-identified amendments, Claims 2-23 will be pending.

Section 2 of the Office Action acknowledged applicants' claim for foreign priority under 35 U.S.C. 119(b) to an application filed in Japan (i.e., Japanese patent application 10-55088) on March 6, 1998. Accordingly, the Office Action required a certified copy of the foreign application be filed. The undersigned hereby disclaims the claim for priority under 35 U.S.C. 119(b), thereby obviating the requirement to file a certified copy. The priority data is correctly stated on the filing receipt for this patent application. Specifically, this patent application has been accepted as a national stage application under 35 U.S.C. 371 of PCT patent application serial number PCT/JP99/01092 filed March 5, 1999. That PCT patent application correctly claims priority to the Japanese patent application 10-55088 filed March 6, 1998. Accordingly, the present application has priority back to the Japanese patent application 10-55088 even without a priority claim under 35 U.S.C. 119(b).

Section 4 of the Office Action rejected Claims 2-5 and 9-19 under 35 U.S.C. 102(b) as being anticipated by United States patent number 5,280,521 issued to Itoh (hereinafter referred to simply as "Itoh"). Of these rejected claims, claims 2, 4, 9-11, 13, 15 and 17-19 are independent claims.

Independent Claims 2 and 9

As recited in the amended claim 2 (and amended claim 9), a radio base station (or a first shared resource in the case of claim 9) carries out traffic control "by discarding data unconformable to the traffic condition, or regulating transmission of the data unconformable to the traffic condition to meet the traffic condition." Itoh does not disclose this recited feature.

The Office Action states that the passages in column 14, line 30-49 and column 18, lines 4-26 of Itoh describe traffic control. However, in these passage, there is a description that the communication traffic is only monitored, and if the monitored traffic exceeds a certain value, the mode is switched from the residential district mode (in which the control signal is transmitted as required) to the business district mode in which the control signal is normally transmitted (see also Itoh, column 29, lines 10-37). In other words, there is no description regarding discarding

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data unconformable to traffic condition, or regulating transmission of the data unconformable to the traffic condition to meet the traffic condition. Therefore, for at least this reason, independent Claims 2 and 9 are not anticipated by Itoh.

Independent Claims 4 and 10

As recited in independent Claim 4 (and Claim 10), traffic control is carried out for received data "such that a cumulative transmission volume in a traffic monitoring period defined by taking account of [a] proper period" (at which the data takes "place in a burst mode") "does not exceed an allowed transmission volume based on a traffic rate." An example of the proper period is a radio frame period. Itoh does not disclose this recited feature.

The Office Action states that the passage in column 29, lines 10-37 of Itoh describes this feature. However, this passage describes that the communication traffic is only monitored, and if the monitored traffic exceeds a certain value, the mode is switched from the residential district mode in which the control signal is transmitted as required, to the business district mode in which the control signal is normally transmitted (see also Itoh, column 29, lines 10-37). Accordingly, Itoh has no description regarding a traffic monitoring period defined by taking account of a proper period at which the data takes place in a burst mode. Therefore, for at least this reason, independent Claims 4 and 10 are not anticipated by Itoh.

Independent Claims 11 and 17

As recited in independent Claims 11 and 17, traffic control is carried out at a LAN. That is, at the LAN, the traffic control is carried out by discarding data unconformable to the traffic condition, or regulating transmission of the data unconformable to the traffic condition to meet the traffic condition. For the same reasons as stated above with respect to Claims 2 and 9, Itoh does not disclosure this recited feature. Therefore, for at least this reason, independent Claims 11 and 17 are not anticipated by Itoh.

Independent Claims 13 and 18

As recited in independent Claims 13 and 18, traffic control is carried out at a PBX. That is, at the PBX, the traffic control is carried out by discarding data unconformable to the traffic condition, or regulating transmission of the data unconformable to the traffic condition to meet the traffic condition. For the same reasons as stated above with respect to Claims 2 and 9, Itoh does not disclosure this recited feature. Therefore, for at least this reason, independent Claims 13 and 18 are not anticipated by Itoh.

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Independent Claims 15 and 19

As recited in independent Claims 15 and 19, traffic control is carried out at a gateway switch. That is, at the gateway switch, the traffic control is carried out by discarding data unconformable to the traffic condition, or regulating transmission of the data unconformable to the traffic condition to meet the traffic condition. For the same reasons as stated above with respect to Claims 2 and 9, Itoh does not disclosure this recited feature. Therefore, for at least this reason, independent Claims 15 and 19 are not anticipated by Itoh.

Dependent Claims

Dependent claims 3, 5, 12, 14 and 16 depend, directly or indirectly, from one of independent claims 2, 4, 9-11, 13, 15 or 17-19, and thus is not anticipated by Itoh for at least the reasons provided above for their corresponding independent claim.

For at least these reasons, the applicants respectfully request that the 35 U.S.C. 102(b) rejection be withdrawn.

Section 7 of the Office Action rejected Claim 8 under 35 U.S.C. 103(a) as being unpatentable over Itoh in view of United States patent number 5,519,689 issued to Kim (hereinafter referred to simply as "Kim"). Claim 8 depends from Claim 4. As mentioned above, Itoh does not a feature of Claim 4 that traffic control is carried out for received data "such that a cumulative transmission volume in a traffic monitoring period defined by taking account of [a] proper period" (at which the data takes "place in a burst mode") "does not exceed an allowed transmission volume based on a traffic rate." Kim likewise does not disclose this feature. Accordingly, Claim 4 is not obvious over the combination of Itoh and Kim. Therefore, Claim 8 is not obvious over the combination of Itoh and Kim. Hence, the applicants respectfully request withdrawal of the 35 U.S.C. 103(a) rejection.

In view of the amendments made herein and in light of these remarks, Applicants respectfully request withdrawal of the pending rejections. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

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Dated this 5th day of January, 2004.

Respectfully submitted,

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